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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,888	09/22/2003	Craig Bryant	200311140-1	3575
22879 7590 06/16/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER PEZZLO, JOHN	
			ART UNIT 2619	PAPER NUMBER
			NOTIFICATION DATE 06/16/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/668,888	<b>Applicant(s)</b> BRYANT ET AL.	
	<b>Examiner</b> John Pezzlo	<b>Art Unit</b> 2619	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 21-27 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19, 21-27 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 4-10, and 13 are rejected under 35 U.S.C. 101 because the claims need to insert prior to "computer executable instructions" -- computer readable volatile or non-volatile media storing -- and inserting after "computer executable instructions" -- which when executed by a computer --.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

I. Claims 1-7, and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Slipp et al. (2005/0086325 A1) hereinafter Slipp.

1. Regarding claim 1 – Slipp discloses a packet reader configured to scan packets transmitted through a network for pre-specified criteria, wherein the packets include endpoint information and data, a request/response matcher configured to receive packets that meet the pre-specified criteria from the packet reader, and to match request packets with corresponding response packets, and a message analyzer configured to access the matched packets, determine the structure utilized in the data of the matched packets, and to analyze the data of the matched packets to generate at least a portion of a model of the data, refer to Figures 1 and 2 and 3 and paragraphs [0025], [0026], [0027], [0030], and [0046] to [0048].
2. Regarding claim 2 – Slipp discloses the request/response marcher and the message analyzer are configured to access a database to store and retrieve the matched packets, refer to Figures 6 and 7 and paragraphs [0037] to [0042].
3. Regarding claim 3 – Slipp discloses the packet reader is configured to decipher and reformat the header and data in the packets, refer to Figures 1 and 2 and 3 and paragraphs [0025], [0026], [0027], [0030], [0046] to [0048], and [0052] to [0063].
4. Regarding claim 4 – Slipp discloses monitor transactions between components in the network based on the matched packets, refer to Figures 1 and 2 and 3 and paragraphs [0025], [0026], [0027], [0030], [0046] to [0048] and [0052] to [0063].

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5. Regarding claim 5 – Slipp discloses provide information regarding the matched packets to an application program in the network, refer to Figures 7 and 8 and paragraphs [0067] to [0068].

6. Regarding claim 6 – Slipp discloses provide information regarding the matched packets to a network administration facility for the network, Figures 1 and 2 and 3 and paragraphs [0025], [0026], [0027], [0030], and [0046] to [0048].

7. Regarding claim 7 – Slipp discloses validate the data in subsequent packets based on the data model, refer to Figures 6-8 and paragraphs [0064] to [0068].

8. Regarding claim 9 – Slipp discloses generate a map of the packets transmitted between endpoints in a network, refer to Figures 5a, 5b, and 6 and paragraphs [0035], [0036], and [0064].

9. Regarding claim 10 – Slipp discloses the type of application in which the matched packets are utilized, refer to Figures 7 and 8 and paragraphs [0067] to [0069].

10. Regarding claim 11 – Slipp discloses monitor system is implemented within a server in the network, refer to Figures 1 and 2 and paragraphs [0019] to [0024].

11. Regarding claim 12 – Slipp discloses monitor the packets for a plurality of servers in the network, refer to Figures 1-3 and paragraphs [0019] to 0026].

12. Regarding claim 13 – Slipp discloses combine the data from a plurality of related packages to form a message, refer to Figure 7 and paragraphs [0050] to [0067].

### *Allowable Subject Matter*

Claim 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-19 and 21-27 are allowable over prior art of record.

### *Response to Arguments*

Applicant's arguments filed 3/20/08 have been fully considered but they are not persuasive. Applicants argue on page 7 that the 101 rejection and on page 8 that the 102 rejection for claims 1-7 and 9-13 is not correct. The examiner respectfully disagrees

Regarding the 101 rejection: In paragraph [0043] of the specification the applicants state that the computer readable medium comprises a communication signal, which is non-statutory. The examiner suggests amending the claims as stated in the rejection to overcome the 101 rejection.

Regarding the "means for" claims, 23-27. Since the applicants are invoking 112 6th paragraph language, the examiner is allowing claims 23-27.

Regarding claims 1-7 and 9-13, the 102 rejection, Slipp, the reference discloses a packet reader, a request/response matcher, and a message analyzer as stated in the rejection. The examiner believes the rejection to be proper and therefore this action is made final.

If the applicants feel an interview will advance prosecution please call the examiner.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (571) 272-3090. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C.

or faxed to:

(571) 273-8300

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Jefferson Building  
2A15  
500 Dulany Street  
Alexandria, VA, 22313.

John Pezzlo



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/John Pezzlo/

Primary Examiner, Art Unit 2619